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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

In re J. M., a Person Coming Under the  
Juvenile Court Law.

B210844

LOS ANGELES COUNTY DEPARTMENT  
OF CHILDREN AND FAMILY SERVICES,

(Los Angeles County  
Super. Ct. No. CK65963)

Plaintiff and Respondent,

v.

C.S.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County.

Robert L. Stevenson, Juvenile Court Referee. Affirmed.

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C.S., in pro. per. and Marissa Coffey, under appointment by the Court of Appeal,  
for Defendant and Appellant.

No appearance for Plaintiff and Respondent.  
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Mother, C. S., appeals from an order of the juvenile court terminating parental rights and freeing her infant son for adoption. We affirm.

### **BACKGROUND**

In December 2006, the Department of Children and Family Services (DCFS) received an emergency referral alleging general neglect regarding then four-month-old J.M. The maternal great grandmother and maternal aunt contacted DCFS claiming mother, then 18 years old, had been using methamphetamine since she was 13 years old, regularly disappeared for days at a time, and left without providing, or making arrangements, for J.M.'s care.

Mother failed to appear at the detention and jurisdiction hearing on January 9, 2007. At the continued hearing the court informed mother that she needed to spend the next six months taking full advantage of offered reunification services in order to have J.M. returned to her care. The court explained that because J.M. was under three years old, the court could terminate family reunification services and set a hearing to consider termination of her parental rights unless she demonstrated progress with her case plan within the next six months. At the conclusion of the hearing the court declared J.M. a dependent of the juvenile court, finding mother had failed to protect and provide for the child. (Welf. & Inst. Code, § 300, subds. (b) and (g), further unmarked statutory references are to this Code.)<sup>1</sup> The court placed J.M. with his maternal great-great aunt.

Mother did not appear at the section 366.21, subdivision (e) six-month review hearing held November 14, 2007, and the court found that in the preceding 11 months mother had only attended one court hearing, had no contact with DCFS, had not participated in any recommended programs, and “essentially” had no visits with J.M. The juvenile court terminated family reunification services and set the matter for a section 366.26 hearing to select a permanent plan for J.M. and to terminate parental rights.

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<sup>1</sup> The court made similar findings with respect to the father who is not a party to this appeal.

The court continued the section 366.26 hearing several times, primarily to allow DCFS to conduct a due diligence search for father and to provide proper ICWA notice to the Bureau of Indian Affairs.

On July 22, 2008, the court held the section 366.26 hearing to select a permanent plan. Mother did not appear, nor had she communicated with her counsel since the detention and jurisdiction hearing. The juvenile court found by clear and convincing evidence that J.M. was likely to be adopted, terminated mother's parental rights, and freed J.M. for adoption.

### **DISCUSSION**

Mother appealed and we appointed counsel to represent her. Counsel filed a letter stating that after reviewing the entire record and the juvenile court file, and researching issues and discussing potential issues on appeal with California Appellate Project lawyers, counsel was unable to file an opening brief on the merits on mother's behalf under *In re Sade C.* (1996) 13 Cal.4th 952.

Thereafter, mother filed a letter stating she recognized that she had made mistakes, and that she intended to pursue drug and parenting programs now that she was incarcerated in state prison. A few weeks later mother sent another letter from prison raising two potential legal claims.

### **Evidence To Support the Findings**

Mother accuses the maternal great grandmother and maternal aunt of lying to DCFS about her behavior which, she claims, led to J.M.'s detention. Mother conceded her "juvenile record" worried her family members, but claimed they "went to unnecessary[] extremes to guarantee the safety of [her] son" and "stretch[ed] the truth to justify their concern." This is essentially a challenge to the sufficiency of the evidence to support the court's findings. We have examined the entire record and are satisfied substantial evidence supports the court's findings. (*In re Rocco M.* (1991) 1 Cal.App.4th 814, 820.) In addition to the maternal great grandmother and maternal aunt, father

likewise reported that mother had been using methamphetamine and marijuana since she was 13 years old, that she regularly left the house for days at a time telling no one where she was going, and left J.M. without provisions and without having made arrangements for J.M.'s care. Mother does not claim father's report of her behavior was untruthful. The father's statements fully corroborated, and were at least as damaging as, those of mother's relatives, and standing alone supported the court's findings that mother failed to protect and provide for J.M. (*Ibid.*)

### **Hearings Held While Incarcerated**

Mother next claims that because she was in jail for "several of [her] court dates" she should have been "expedited to court for an appearance." The record belies her assertion that the juvenile court failed to take steps to ensure her appearance for all court dates when made aware of her incarceration.

The first time mother was arrested during these juvenile court proceedings was on October 24, 2007. She received personal notice of, and was released from jail before, the November 14, 2007 hearing terminating family reunification services and setting the matter for a section 366.26 hearing. She nevertheless did not appear at the hearing.

Mother was again jailed in March 2008 and the court issued orders to bring her to court for the hearing scheduled for March 17, 2008 to terminate parental rights and free J.M. for adoption. Mother, however, was a "miss out," and for this reason the court continued the hearing to April 24, 2008. In the meantime mother was released from jail and on March 27, 2008, DCFS personally served mother at her residence with notice of the section 366.26 hearing which informed her that the upcoming hearing concerned termination of her parental rights and freeing J.M. for adoption. Mother did not appear at the continued April 24, 2008 hearing.

At the April 24, 2008 hearing the court found notice to both parents had been proper but continued the hearing to July 22, 2008 to allow DCFS to provide proper ICWA notice to the Bureau of Indian Affairs.

At the status review hearing on May 14, 2008, the court learned through a family member that mother was again incarcerated. The court again issued orders to bring her to court for the hearing concerning termination of parental rights scheduled for July 22, 2008.

Thereafter, family members informed the court that mother had been released from jail in June 2008. Although mother received mailed notice she did not appear for the July 22, 2008 hearing at which the court terminated her parental rights to J.M.

In her letter mother asserts that she was rearrested on July 3, 2008 and was incarcerated on the date of the hearing terminating her parental rights. Assuming the truth of mother's assertion, if she was arrested on July 3, 2008 she had three weeks before the scheduled hearing date of July 22, 2008 within which to notify the court of her incarcerated status but she failed to do so. Had she done so, the court, as it had done in the past, could have issued orders to bring her to court for the hearing, or continued the hearing to enable her to attend.

Mother neither challenges the juvenile court's finding on adoptability nor provides any evidence that she falls within one of the enumerated exceptions to the legislative determination that parental rights should be terminated in a case such as this. (§ 366.26, subd. (c)(1); *In re Celine R.* (2003) 31 Cal.4th 45, 53; *In re Matthew C.* (1993) 6 Cal.4th 386, 392.) Because in a review of the record we ascertain no reversible error or other defect in the court's order terminating parental rights there is "no reason to reverse or [] modify the order[] in question." (*In re Sade C.*, *supra*, 13 Cal.4th at p. 994.)

**DISPOSITION**

The order is affirmed.

NOT TO BE PUBLISHED.

ROTHSCHILD, J.

We concur:

MALLANO, P. J.

WEISBERG, J.\*

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\* Retired Judge of the Los Angeles Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.